

MISC. CIVIL APPLICATION NO. 1169 OF 1992.

Date of decision: 18.12.1995.

For approval and signature

The Honourable Mr. Justice S. M. Soni

and

The Honourable Mr. Justice R. R. Jain

Mr. P.S. Patel, advocate for petitioner.

Mr. M.D. Rana, advocate for respondents.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M. Soni & R.R. Jain, JJ.

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December 18, 1995.

Oral judgment (Per Soni, J.)

Heard learned advocate Mr. P.S. Patel. Respondents and their advocate are absent in Court on call.

This application is filed for taking necessary action under the Contempt of Courts Act against the respondents for wilful disobedience of the order passed by the Gujarat Primary Education Tribunal in Application Nos.267 of 1988 and 261/91, on 28.4.1992. By the said order, the

Tribunal has directed the respondent- management to pay up difference of salary to the petitioner within three months and go on paying regular salary on or before 5th of every month.

We have in MCA No.1949/94 held that the said award is executable as vide clause (14) of the Gujarat Primary Education Tribunal Procedure Order, 1987, Civil Procedure Code is applicable. In view of this fact, when the order of the Tribunal can be enforced by way of execution and when contempt proceeding is not a substitute for execution as held by Supreme Court in the case of the Alahar Co-operative Credit Service Society v. Sham Lal, reported 1995 (2) GLH, 550, this court would not like to exercise its jurisdiction under the Contempt of Courts Act. Hence, this proceeding deserves to be dropped.

In the result, the petition is dismissed. Rule discharged. No costs.